

SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF KINGS

-----X  
SIMON YEVDAYEV, an infant by his mother and,  
Natural guardiant, SAMIRA YEVDAYEV and  
SAMIRA YEVDAYEV, individually,

Plaintiffs,

-against-

THE CITY OF NEW YORK,

Defendant.

Index no:

SUMMONS

Plaintiffs designate KINGS  
County as the place of trial

The basis of venue is:  
Plaintiffs' residence

Plaintiffs' reside at:  
719 Avenue P  
Brooklyn, New York 11223

-----X  
**To the above named Defendants:**

**You are hereby summoned** to answer the complaint in this action, and to serve a copy of your answer, or, if the complaint is not served with this summons, to serve a notice of appearance on the Plaintiff's attorneys within twenty days after the service of this summons, exclusive of the day of service, where service is made by delivery upon you personally within the state, or, within 30 days after completion of service where service is made in any other manner. In case of your failure to appear or answer, judgment will be taken against you by default for the relief demanded in the complaint.

Yours, etc.

ALPERT, SLOBIN & RUBENSTEIN, LLP

Dated: Bronx, New York  
May 1, 2014

BY: 

GARY SLOBIN

Attorneys for Plaintiff  
Office & P.O. Address  
2890 Randall Avenue  
Bronx, New York 10465  
718-829-8800

TO: The City of New York  
100 Church Street  
New York, New York 10007

SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF KINGS

-----X

Index No.:

SIMON YEVDAYEV an infant by his mother  
and natural guardian, SAMIRA YEVDAYEV  
and SAMIRA YEVDAYEV individually

Plaintiffs,

COMPLAINT

-against-

CITY OF NEW YORK,

Defendant.

-----X

Plaintiff, Simon Yevdayev an infant by his mother and  
natural guardian, Samira Yevdayev and Samira Yevdayev,  
individually, by their attorneys, Alpert, Slobin & Rubenstein,  
LLP, complaining of the defendant respectfully set forth and  
allege as follows:

1. At all times hereinafter mentioned, infant plaintiff,  
Simon Yevdayev was and still is a resident of the County of  
Kings, State of New York.

2. At all times hereinafter mentioned, plaintiff, Samira  
Yevdayev was and still is a resident of the County of Kings,  
State of New York.

3. At all times hereinafter mentioned, defendant, City of New  
York, was and still is a municipal corporation duly organized  
and existing pursuant to the laws of the State of New York.

4. That prior to the commencement of this action and within ninety (90) days after the favorable disposition of plaintiff's criminal charges, and on October 11, 2013, plaintiff caused to be served upon the defendant, City of New York, a Notice of Claim in compliance with Section 50-e of the General Municipal Law of the State of New York.

5. That over thirty (30) days have elapsed since the service of such Notice of Claim, and that adjustment or payment thereof has been refused by the defendant, City of New York.

6. That this action is being commenced within one (1) year and ninety (90) days after the after the favorable disposition of plaintiff's criminal charges hereinafter complained.

7. Plaintiffs have complied with all of the conditions precedent to the bringing of this action and have complied with all of the provisions of the Charter of the City of New York.

8. That on July 25, 2013, infant plaintiff, Simon Yevdayev was arrested and charged with violation of New York City Administrative Code § 16-118.

9. That the aforementioned charge was pending from July 25, 2013 through January 14, 2014.

10. That the Kings County District Attorneys office prosecuted the infant plaintiff with regard to the aforementioned charges from July 25, 2013 through January 14, 2014.

11. That on January 24, 2014, the charges pertaining to the July 25, 2013 arrest were dismissed by Kings County Criminal Court Judge M Dunnom, and the plaintiff's record sealed.

**AS AND FOR A FIRST CAUSE OF ACTION**  
**FOR INFANT PLAINTIFF SIMON YEVDAYEV**

12. Infant plaintiff, Simon Yevdayev, repeats, reiterates and realleges each and every allegation contained in paragraphs marked "1" through "11" as if more fully set forth herein at length.

13. That on or about July 25, 2013, defendant by its agents, servants and/or employees wrongfully, wilfully and maliciously, without probable cause, and under color of law, falsely arrested infant plaintiff and detained him, thus depriving him of his freedom and rights.

14. That on or about July 25, 2013, defendant, by its agents, servants and/or employees without a proper and legal warrant falsely arrested infant plaintiff thus depriving him of his freedom and civil rights in violation of 42 USC §1983 and 42 USC §1988.

15. That on or about July 25, 2013, defendant, by its agents, servants and/or employees without a pretense of legal process wrongfully arrested infant plaintiff, Simon Yevdayev, thus

depriving him of his freedom and civil rights in violation of 42 USC §1983 and 42 USC §1988.

16. That by reason of the foregoing, the infant plaintiff has has sustained personal injuries, psychological injuries, and has been rendered sick, sore, lame, maimed and disabled and so remains. That he has been obliged to expend, and will expend in the future, sums of money for legal fees, medical aid and attention, and that by reason of the foregoing, infant plaintiff has been damaged in a sum which exceeds the jurisdictional limits of all lower courts which would otherwise have jurisdiction. Furthermore, infant plaintiff is seeking to recover attorneys fees pursuant to 42 USC §1988.

17. The amount of damages sought exceeds the jurisdictional limits of all lower courts which would otherwise have jurisdiction.

**AS AND FOR A SECOND CAUSE OF ACTION**  
**FOR INFANT PLAINTIFF SIMON YEVDAYEV**

18. Infant plaintiff, Simon Yevdayev, repeats, reiterates and relleges each and every allegation contained in paragraphs marked "1" through "17" as if more fully set forth herein at length.

19. That on or about July 25, 2013 through January 24, 2014, defendant by its agents, servants and/or employees wrongfully,

wilfully and maliciously, and under color of law, and without probable cause maliciously prosecuted infant plaintiff Simon Yevdayev, thus depriving him of his freedom and civil rights.

20. That on or about July 25, 2013 through January 24, 2014, defendant, by its agents, servants and/or employees without a proper and legal warrant maliciously prosecuted infant plaintiff thus depriving him of his freedom and civil rights in violation of 42 USC §1983 and 42 USC §1988.

21. That on or about July 25, 2013 through January 24, 2014, defendant, by its agents, servants and/or employees without probable cause and a pretense of legal process maliciously prosecuted infant plaintiff thus depriving him of his freedom and civil rights.

22. The amount of damages sought exceeds the jurisdictional limits of all lower courts which would otherwise have jurisdiction.

23. That on or about July 25, 2013 through January 24, 2014, defendant by its agents, servants and/or employees wrongfully, wilfully and maliciously, and under color of law, and without probable cause initiated, continued and prolonged the prosecution of the infant plaintiff without the probable cause to reasonably believe that the infant plaintiff was guilty of the aforementioned criminal charges, and maliciously prosecuted

infant plaintiff Simon Yevdayev, thus depriving him of his freedom and civil rights.

24. That by reason of the foregoing, the infant plaintiff has sustained personal injuries, psychological injuries, and has been rendered sick, sore, lame, maimed and disabled and so remains. That he has been obliged to expend, and will expend in the future, sums of money for legal fees, medical aid and attention, and that by reason of the foregoing, Plaintiff has been damaged in a sum which exceeds the jurisdictional limits of all lower courts which would otherwise have jurisdiction. Furthermore, plaintiff is seeking to recover attorneys fees pursuant to 42 USC §1988.

**AS AND FOR A THIRD CAUSE OF ACTION**  
**FOR INFANT PLAINTIFF SIMON YEVDAYEV**

25. Infant plaintiff, Simon Yevdayev, repeats, reiterates and realleges each and every allegation contained in paragraphs marked "1" through "24" as if more fully set forth herein at length.

26. That on or about July 25, 2013, defendant by its agents, servants and/or employees wrongfully, wilfully and maliciously, and under color of law, and without probable cause imprisoned infant plaintiff Simon Yevdayev, thus depriving him of his

freedom and civil rights in violation of 42 USC §1983 and 42 USC §1988.

27. That on or about July 25, 2013, defendant, by its agents, servants and/or employees without a proper and legal warrant wrongfully imprisoned infant plaintiff thus depriving him of his freedom and civil rights.

28. That on or about July 25, 2013, defendant, by its agents, servants and/or employees without probable cause and a pretense of legal process wrongfully imprisoned infant plaintiff thus depriving him of his freedom and civil rights.

29. That by reason of the foregoing, the infant plaintiff has sustained personal injuries, psychological injuries, and has been rendered sick, sore, lame, maimed and disabled and so remains. That he has been obliged to expend, and will expend in the future, sums of money for legal fees, medical aid and attention, and that by reason of the foregoing, infant plaintiff has been damaged in a sum which exceeds the jurisdictional limits of all lower courts which would otherwise have jurisdiction. Furthermore, infant plaintiff is seeking to recover attorneys fees pursuant to 42 USC §1988.

30. The amount of damages sought exceeds the jurisdictional limits of all lower courts which would otherwise have jurisdiction.



**AS AND FOR A FOURTH CAUSE OF ACTION**  
**FOR INFANT PLAINTIFF SIMON YEVDAYEV**

31. Infant plaintiff, Simon Yevdayev, repeats, reiterates and realleges each and every allegation contained in paragraphs marked "1" through "30" as if more fully set forth herein at length.

32. That on or about July 25, 2013 defendant, by its agents, servants and/or employees wrongfully, wilfully and maliciously, and without right wrongfully assaulted infant plaintiff thus causing him injury and fear for his personal safety in violation of 42 USC §1983 and 42 USC §1988.

33. That on or about July 25, 2013, defendant, by its agents, servants and/or employees without a proper and legal warrant wrongfully assaulted infant plaintiff thus depriving him of his freedom and rights.

34. That on or about July 25, 2013, defendant, by its agents, servants and/or employees without a pretense of legal process wrongfully assaulted infant plaintiff thus depriving him of his freedom and rights.

35. That by reason of the foregoing, the infant plaintiff has sustained personal injuries, psychological injuries, and has been rendered sick, sore, lame, maimed and disabled and so remains. That he has been obliged to expend, and will expend in the future, sums of money for legal fees, medical aid and

attention, and that by reason of the foregoing, infant plaintiff has been damaged in a sum which exceeds the jurisdictional limits of all lower courts which would otherwise have jurisdiction. Furthermore, infant plaintiff is seeking to recover attorneys fees pursuant to 42 USC §1988.

36. The amount of damages sought exceeds the jurisdictional limits of all lower courts which would otherwise have jurisdiction.

**AS AND FOR A FIFTH CAUSE OF ACTION**  
**FOR INFANT PLAINTIFF SIMON YEVDAYEV**

37. Infant plaintiff, Simon Yevdayev, repeats, reiterates and realleges each and every allegation contained in paragraphs marked "1" through "36" as if more fully set forth herein at length.

38. That on or about July 25, 2013, defendant, by its agents, servants and/or employees wrongfully, wilfully and maliciously, and without right committed a battery upon plaintiff thus causing him injury and fear for his personal safety in violation of 42 USC §1983 and 42 USC §1988.

39. That on or about July 25, 2013, defendant, by its agents, servants and/or employees without a proper and legal warrant committed a battery upon infant plaintiff thus depriving him of his freedom and rights.

40. That on or about July 25, 2013, defendant, by its agents, servants and/or employees without a pretense of legal process committed a battery upon infant plaintiff's intestate thus depriving him of his freedom and rights.

41. That by reason of the foregoing, the infant plaintiff has sustained personal injuries, psychological injuries, and has been rendered sick, sore, lame, maimed and disabled and so remains. That he has been obliged to expend, and will expend in the future, sums of money for legal fees, medical aid and attention, and that by reason of the foregoing, infant plaintiff has been damaged in a sum which exceeds the jurisdictional limits of all lower courts which would otherwise have jurisdiction. Furthermore, infant plaintiff is seeking to recover attorneys fees pursuant to 42 USC §1988.

42. The amount of damages sought exceeds the jurisdictional limits of all lower courts which would otherwise have jurisdiction.

**AS AND FOR A SIXTH CAUSE OF ACTION**  
**FOR INFANT PLAINTIFF SIMON YEVDAYEV**

43. Infant plaintiff, Simon Yevdayev, repeats, reiterates and realleges each and every allegation contained in paragraphs marked "1" through "42" as if more fully set forth herein at length.

44. That on or about July 25, 2013 defendant by its agents, servants and/or employees intentionally inflicted emotional distress upon infant plaintiff in violation of 42 USC §1983 and 42 USC §1988.

45. That by reason of the foregoing, the infant plaintiff has sustained personal injuries, psychological injuries, and has been rendered sick, sore, lame, maimed and disabled and so remains. That he has been obliged to expend, and will expend in the future, sums of money for legal fees, medical aid and attention, and that by reason of the foregoing, infant plaintiff has been damaged in a sum which exceeds the jurisdictional limits of all lower courts which would otherwise have jurisdiction. Furthermore, infant plaintiff is seeking to recover attorneys fees pursuant to 42 USC §1988.

46. The amount of damages sought exceeds the jurisdictional limits of all lower courts which would otherwise have jurisdiction.

**AS AND FOR A SEVENTH CAUSE OF ACTION**  
**FOR INFANT PLAINTIFF SIMON YEVDAYEV**

47. Infant plaintiff, Simon Yevdayev, repeats, reiterates and realleges each and every allegation contained in paragraphs marked "1" through "46" as if more fully set forth herein at length.

48. Defendant failed to properly train and/or supervise its agents, servants and/or employees in arrest procedure and substantive law in violation of 42 USC §1983 and 42 USC §1988.

49. Defendant, by its agents, servants and/or employees used excessive force upon infant plaintiff while searching and/or arresting infant plaintiff.

50. Defendant, by its agents, servants and/or employees acted with malice toward infant plaintiff.

51. The actions of the defendant constituted false arrest and/or imprisonment of the infant plaintiff and/or malicious prosecution.

52. That by reason of the foregoing, the infant plaintiff has sustained personal injuries, psychological injuries, and has been rendered sick, sore, lame, maimed and disabled and so remains. That he has been obliged to expend, and will expend in the future, sums of money for legal fees, medical aid and attention, and that by reason of the foregoing, infant plaintiff has been damaged in a sum which exceeds the jurisdictional limits of all lower courts which would otherwise have jurisdiction. Furthermore, infant plaintiff is seeking to recover attorneys fees pursuant to 42 USC §1988.

53. The amount of damages sought exceeds the jurisdictional limits of all lower courts which would otherwise have jurisdiction.

**AS AND FOR A EIGHTH CAUSE OF ACTION**  
**FOR INFANT PLAINTIFF SIMON YEVDAYEV**

54. Infant plaintiff, Simon Yevdayev, repeats, reiterates and realleges each and every allegation contained in paragraphs marked "1" through "53" as if more fully set forth herein at length.

55. That on or about July 25, 2013 defendant by its agents, servants and/or employees was careless and negligent in the performance of its duties.

56. That by reason of the foregoing, the infant plaintiff has sustained personal injuries, psychological injuries, and has been rendered sick, sore, lame, maimed and disabled and so remains. That he has been obliged to expend, and will expend in the future, sums of money for legal fees, medical aid and attention, and that by reason of the foregoing, infant plaintiff has been damaged in a sum which exceeds the jurisdictional limits of all lower courts which would otherwise have jurisdiction. Furthermore, infant plaintiff is seeking to recover attorneys fees pursuant to 42 USC §1988.

57. The amount of damages sought exceeds the jurisdictional limits of all lower courts which would otherwise have jurisdiction.

**AS AND FOR A NINTH CAUSE OF ACTION**  
**FOR SAMIRA YEVDAYEV**

58. Plaintiff, Samira Yevdayev, repeats, reiterates and realleges each and every allegation contained in paragraphs marked "1" through "57" as if more fully set forth herein at length.

59. At all times hereinafter mentioned, Plaintiff Samira Yevdayev was the mother of the Infant Plaintiff and as such was entitled to the services, society and companionship of the Infant Plaintiff.

60. That by reason of the foregoing, Plaintiff Samira Yevdayev has been deprived of the services, society and companionship of Infant Plaintiff Simon Yevdayev.

61. The amount of damages sought in this action exceeds the jurisdictional limits of all lower courts which would otherwise have jurisdiction.

**WHEREFORE,** plaintiffs demands judgment against the defendant on each cause of action in an amount to be determined at the trial of this action together with costs and disbursements of this action.

Yours, etc.

ALPERT, SLOBIN & RUBENSTEIN, LLP

Dated: New York, Bronx  
May 1, 2014

BY: 

GARY SLOBIN

Attorneys for Plaintiff

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